THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

Date: 19—09—2005

W.P. No. 24628 of 2001

Between:

M/s. Madras Cements Ltd.,

Vijayawada, rep. by its Authorised Signatory

Sri K. Bhaskar

…Petitioner.

a n d

The Deputy Commissioner(CT), No.I Division,

Vijayawada and the Competent Authority and another.

…Respondents.

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

W.P. No. 24628 of 2001

O R D E R: (per Sri S. Ananda Reddy, J)

This writ petition is filed by the petitioner invoking the jurisdiction of this Court under Article 226 of the Constitution of India seeking declaration that the order passed by the 1st respondent dated 4.10.2001 rejecting the claim of the petitioner under the settlement scheme framed by the Government under Ordinance No.3 of 2001 is illegal and arbitrary and consequently to set aside the same with a further direction to the 1st respondent to issue necessary orders in Form II in terms of the application filed by the petitioner for the years 1989-90, 1991-92 and 1992-93 forthwith to the petitioner and to pass such other order or orders as deemed fit.

According to the petitioner, for the assessment years 1989-90, 1991-92 and 1992-93 the appeals filed by the petitioner were pending and, therefore, in view of the Ordinance issued by the Government the petitioner filed its application seeking the benefit of settlement scheme by paying the necessary amounts on the premise that the appeals filed by the petitioner before the Sales Tax Appellate Tribunal are pending. But, however, the said application filed by the petitioner was rejected by the 1st respondent on the ground that the appeals filed by the petitioner were dismissed on 19th August 2000 vide T.A.Nos. 1737, 1738 and 1739 of 1999 and, therefore, the petitioner is not entitled to the benefit of the settlement scheme. Assailing the said order of the 1st respondent, the petitioner has come up with the present writ petition.

The grievance of the petitioner is that though the appeals were heard on 19.8.2000, the orders were in fact served on the petitioner only on 6.11.2001 and therefore till the service of the orders in the appeals, the appeals are to be deemed to have been pending before the Tribunal and therefore the petitioner is entitled for the benefit of the scheme. Accordingly, he sought to quash the impugned proceedings issued by the 1st respondent with a consequential direction.

The contention of the respondent-Department, on the other hand, is that no appeals are pending as on the relevant dates prescribed under the Ordinance as well as under the Rules called A.P. Sales Tax Settlement of Dispute Rules, 2001 issued in G.O.Ms.No. 531, Revenue (CT.IV) dated 30th July, 2001, as per which two Phases are prescribed for making applications and Phase-I relates to the period from 1.8.2001 to 31.8.2001 as per which the applicants have to make payments as provided, with reference to the assessments and arrears pending as on 31.3.2001. With reference to Phase-2, the period relates to 1.9.2001 to 30.9.2001. Therefore, it is the contention of the respondent-Department that as on the relevant dates the appeals of the petitioner were not pending and therefore the petitioner is not entitled for the benefit of the scheme; hence, no interference is called for.

Heard both sides and perused the material papers.

Admittedly, the Ordinance was issued on 17.7.2001, under which the scheme of settlement was introduced by the State Government in order to give benefit of settlement of the arrears of

sales tax, which are due as on 31.3.2001. One of the requirements for the assessees to have the benefit of settlement scheme is that the matters must be pending either at the assessment or appellate stage or even at the revisional stage. Admittedly, in the present case the appeals were disposed of on 19.8.2000. Therefore, they were not pending as on the date provided under the scheme and as such the petitioner who made its application seeking the benefit of settlement scheme is not entitled for the same. Therefore, the 1st respondent has rightly rejected the application of the petitioner.

The writ petitioner, therefore, is not entitled for the benefit of the settlement scheme. In that view of the matter, the writ petition is devoid of merit and the same is accordingly dismissed.

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B. Sudershan Reddy, J.

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S. Ananda Reddy, J.

Date: 19—09—2005.

MVB.